

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA

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GLORIA STURZENACKER,  
Plaintiff,

v.

CMC RESTORATION, INC.;  
CHRISTOPHER & BRUMMETT, INC;  
DAVID KELLEY,  
Defendants.

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No. 5:17-CV-00113-JFL

**ORDER**

**NOW**, this 27<sup>th</sup> day of June, 2017, for the reasons set forth in the opinion issued this date,

**IT IS HEREBY ORDERED THAT:**

1. The motion of CMC and Kelley to file a reply brief, ECF No. 6, is **GRANTED**;
2. The Clerk of Court is **DIRECTED** to docket the Reply Memorandum attached to the motion, ECF No. 6, as having been filed on April 5, 2017;<sup>1</sup>
3. The Motion to Dismiss, ECF No. 4, is **GRANTED in part and DENIED in part** as follows:
  - A. Counts II and IV against CMC and Kelley, only, are **DISMISSED without prejudice**;
  - B. Defendant Kelley is **TERMINATED, without prejudice**, as a party in this action;
  - C. Sturzenacker may file an amended complaint in accordance with this Court's opinion and order;

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<sup>1</sup> This Court considered the Reply brief when deciding the Motion to Dismiss.

4. **On or before July 14, 2017**, the parties<sup>2</sup> **SHALL** file briefs discussing whether or not this Court should exercise supplemental jurisdiction and specifically addressing the applicability of 28 U.S.C. § 1367(c)(2);

5. The deadline for Sturzenacker to file an amended complaint is stayed until twenty days after this Court issues a decision on whether or not it will exercise supplemental jurisdiction.

BY THE COURT:

/s/ Joseph F. Leeson, Jr.  
JOSEPH F. LEESON, JR.  
United States District Judge

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<sup>2</sup> To the extent that Sturzenacker may file an amended complaint reasserting claims against Kelley, counsel are advised that the brief may contain arguments regarding the dismissed claims against Kelley.